



January 8, 2016

CHARLES S. ZIMMERMAN
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Via ECF Filing

REPLY TO MINNEAPOLIS

RE: Application for Appointment of Charles Zimmerman to Plaintiffs' Steering Committee
In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, 15-MD-2672 CRB (JSC)

Dear Judge Breyer:

I respectfully submit this leadership application pursuant to Pretrial Order No. 2. I seek appointment to the Plaintiffs' Steering Committee to represent vehicle owners and lessees. A summary of my qualifications and my firm's qualifications are in the attached firm resume (Exhibit B) and on our firm's website, www.zimmreed.com.

Zimmerman Reed is a national law firm with offices in Minneapolis, Los Angeles, and Phoenix. Zimmerman Reed embraces and demonstrates a commitment to diversity, including hiring a racially and gender diverse team. That commitment is evidenced by the gender balance among the firm's attorneys, and within our leadership.

1. Experience and Court Appointments

Based on our experience in multidistrict litigation, I understand the commitment necessary to effectively litigate a case such as this and both I and my firm's deep bench of experienced litigators have the time and financial resources required. During more than 30 years of practice, I have successfully represented clients in both individual lawsuits and nationwide class actions. This has included cases involving pharmaceutical companies, manufacturers, sports leagues, the tobacco industry, antitrust, and shareholder suits. I have served as lead counsel, PSC member, and liaison counsel in numerous major MDL cases over the last 15 years. Currently, I am lead counsel representing banks in the *Target Data Breach* case (MDL No. 2522), co-lead counsel in the *National Hockey League Concussion Litigation* (MDL No. 2551), serve on the lead counsel committee for *Stryker Hip Litigation* (MDL No. 2441), and was appointed to the plaintiffs' steering committee in the *NFL Players' Concussion Injury Litigation*. I have also served as co-lead counsel in many other MDL matters, including the *Baycol*, *Guidant*, *Levaquin*, *Medtronic*, *Zicam*, and *National Arbitration Forum* MDLs. Based on this experience, I fully appreciate the commitment required to serve in this case. Importantly, none of my current cases will interfere with my ability to serve on the Plaintiffs' Steering Committee.

Judges assigned to MDLs where I served in a leadership position have commended my role. In the *Baycol* MDL (MDL No. 1431), related to my appointment as co-lead counsel, Chief Judge Michael Davis stated: "Once you get into how many cases that we have handled over the years and how many have settled and the amount of money that's been paid out, I think no one can question your leadership in this matter. Again, I thank you, and I say again it was the best decision I have ever made." In the *Guidant* MDL (MDL No. 1708), commenting on my firm's role, Judge Donovan Frank noted the "superior work the court observed from the firm throughout this litigation."

In addition to my case work, I lecture on complex litigation at various law schools and legal service organizations. Specifically, I have taught at the Minnesota State Bar Association, Minnesota Continuing Legal Education, William Mitchell College of Law, the Minnesota Association for Justice, and Mealey's Publications. I am also an adjunct professor

at the University of Minnesota Law School. In 2006, I authored “Pharmaceutical and Medical Device Litigation,” a manual published by Thompson/West. I have been recognized by my peers in Minnesota as a Super Lawyer from 2000 - 2007, 2011, 2012, 2013, 2014, and 2015. I was also selected as the 2013 & 2014 Minneapolis Mass Tort Litigation / Class Actions - Plaintiffs Lawyer of the Year by The Best Lawyers in America.

2. Judicial References

I would welcome the Court to contact any of the following judges, all of whom know my firm’s work in multidistrict litigation:

- **The Honorable Donovan W. Frank (D. Minn)**, 651.848.1290
In re Guidant Corp. Implantable Defibrillators Products Liability Litigation, MDL 1708, *In re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation*, MDL 2441
- **The Honorable Susan Richard Nelson (D. Minn)**, 651.848.1970
In re National Hockey League Players’ Concussion Injury Litigation, MDL 2551
- **The Honorable James M. Rosenbaum (Ret., D. Minn)**, 612.332.8225
In re Medtronic Implantable Defibrillators Products Liability Litigation, MDL 1726
- **The Honorable Paul A. Magnuson (D. Minn)**, 651.848.1150
In re Target Corporation Customer Data Security Breach Litigation, MDL No. 2522
- **The Honorable Michael J. Davis (D. Minn)**, 612.664.5070
In re Baycol Products Liability Litigation, MDL 1431
- **The Honorable Joan N. Ericksen (D. Minn)**, 612-664-5890
In re LifeTime Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litigation, MDL 2564
- **The Honorable Arthur J. Boylan (Ret., D. Minn)**, 612.206.3730
In re Guidant Corp. Implantable Defibrillators Products Liability Litigation, MDL 1708; *In Re: Medtronic Implantable Defibrillators Products Liability Litigation*

3. Willingness and Ability to Commit to this Litigation

I stand able and ready to commit to this important, time-consuming litigation and would devote my and my firm’s full resources to this matter.

4. Willingness and Ability to Work Cooperatively

In addition to the experience and financial resources necessary to litigate this case, my firm and I bring the right temperament to effectively resolve this case. Despite the contentious nature of litigation, I work collegially and respectfully with opposing counsel and the Court. Last year, I participated in a panel discussion on this topic entitled *Lessons From Key Players In Guidant MDL*; panel participants included opposing counsel, Judge Frank, and Magistrate Judge Boylan from the *Guidant MDL* in which I served as lead counsel.¹ Given the posture of this litigation, I believe the lessons learned there -- judicial communication, party temperament, and meaningful cooperation among all counsel -- will be key.

There is no doubt that consumers will benefit from the many talented firms applying to serve here. Even in the early stages of this litigation, we saw effective collaboration. In Detroit, Judge Rosen was able to obtain the consent of both sides on preliminary issues through effective leadership that included KELLER ROHRBACK, LIEFF CABRASER HEIMANN &

¹ See *Lessons From Key Players In Guidant MDL*, <http://www.law360.com/articles/709115/lessons-from-key-players-in-guidant-mdl>

BERNSTEIN, and the MILLER LAW FIRM. While many of the tasks were housekeeping in nature, such a willingness to work together will greatly enhance the efficiency and civility of the proceedings ahead. Lastly, this application enjoys the support of many law firms around the country. I have attached a representative sample of those law firms as Exhibit A.

5. Access to Resources

Zimmerman Reed has ample resources, both in terms of personnel and funding, to litigate this case in a timely and efficient manner.

6. Appointment Sought

As noted above, I seek appointment to the Plaintiffs' Steering Committee only.

7. Category of Plaintiffs Represented

As noted above, I would seek to represent vehicle owners and lessees should the Court be inclined to create such a structure.

I thank the Court for considering my application to serve on the Plaintiffs' Steering Committee. It would be an honor and privilege to serve.

Respectfully,

ZIMMERMAN REED, LLP

A handwritten signature in black ink, appearing to read 'CSZ', with a long horizontal line extending to the right.

Charles S. Zimmerman

CSZ/LAC
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